

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A
JUDGE: CYNTHIA A. HOLLOWAY
NO.: 00-143

Florida Supreme Court
Case No.: SC00-2226

_____/

MOTION TO COMPEL

COMES NOW Respondent, Cynthia A. Holloway, by and through her undersigned counsel, and files this Motion to Compel the production of records previously requested pursuant to Chapter 119 of the Florida Statutes, and as grounds therefore would show:

1. On August 3, 2001, the undersigned counsel made demand upon the Judicial Qualifications Commission pursuant to Florida Statutes, Section 119.07, for all "invoices and other evidence of money paid by the JQC" to JQC investigator Robert Butler to include a "breakdown of all time expended by Mr. Butler in any JQC matters concerning any JQC inquiry from July 1999 to present." Such request was to include "time sheets, invoices or other evidence of the time expended by Mr. Butler involving Judge Holloway."

2. On September 7, 2001, the JQC responded to the 119.07 request by way of a letter from Beatrice A. Butchko, Special Counsel, to the undersigned counsel purporting to include Mr. Butler's invoices for payment from July 1999 to the present concerning Judge Holloway as well as the other cases for which

Mr. Butler was retained.

3. The earliest billing statement received by the undersigned counsel related to Judge Holloway was dated July 28, 2000 and reflected tasks performed in mid-to-late July, 2000.

4. In a deposition given by Mr. Butler on or about June 6, 2001, Mr. Butler testified that his first contact in the Holloway matter was a fax received from Tom MacDonald on or about June 1, 2000. (Butler deposition, dated 6/6/01, p. 8). Mr. Butler further testified to interviewing Mark Johnson on June 13, 2000 and his witness summaries indicate that he interviewed several other witnesses during the month of June.

5. Accordingly, it is clear that Mr. Butler devoted time to the Holloway matter in June 2000 for which time sheets or other documentation were not received.

WHEREFORE and by reason of the foregoing, Respondent respectfully requests this Court to compel the JQC to produce any and all time records, invoices and other evidence of Investigator Butler's actions pursuant to Florida Statute, Section 119.07.

Respectfully submitted,

SCOTT K. TOZIAN, ESQUIRE
SMITH & TOZIAN, P.A.
109 North Brush Street, Suite 150
Tampa, Florida 33602
(813) 273-0063

FL Bar# 253510
Attorneys for Respondent

Michael S. Rywant, Esquire
RYWANT, ALVAREZ, JONES,
RUSSO & GUYTON, P.A.
109 North Brush Street, Suite 500
P. O. Box 3283
Tampa, Florida 33601
(813) 229-7007
FL Bar# 240354
Attorneys for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of September, 2001, the original of the foregoing Motion to Compel has been furnished by U.S. Mail to: Honorable Thomas D. Hall, Clerk, Supreme Court of Florida, 500 South Duval Street, Tallahassee, Florida 32399-1927 with copies by U.S. Mail to:

Beatrice A. Butchko, Esquire (By Facsimile and U.S. Mail)
Ferrell, Schultz, Carter, Zumpano & Fertel, P.A.
201 South Biscayne Boulevard
34th Floor
Miami, Florida 33131

John Beranek, Esquire (By Facsimile and U.S. Mail)
General Counsel
Ausley & McMullen
Washington Square Building
227 Calhoun Street
P. O. Box 391
Tallahassee, Florida 32302

Honorable James R. Jorgenson (By Facsimile and U.S. Mail)
Chair, Hearing Panel
Third District Court of Appeals
2001 S.W. 117th Avenue
Miami, Florida 33175-1716

Ms. Brooke Kennerly
Executive Director
Judicial Qualifications Commission

Room 102 - The Historic Capitol
Tallahassee, Florida 32399

SCOTT K. TOZIAN, ESQUIRE